YUKON HUMAN RIGHTS COMMISSION

REPORT ON ACTIVITIES
Year ended March 31, 1990

90-06712/

The Honourable Sam Johnston,
Speaker of the Assembly,
Legislative Assembly of Yukon
Government of the Yukon
Box 2703,
Whitehorse, Yukon
Y1A 2C6

Sir:

We have the honour to submit the Annual Report of the Yukon Human Rights Commission for the year ended March 31st, 1990, in accordance with Section 17 of the Yukon Human Rights Act.

Respectfully submitted,

Sylvia Neschokat

Sylvia Neschokat
Chairperson

John A P Anton

John Anton
Commissioner

Violet Greenway

Violet Greenway
Commissioner

INTRODUCTION

The Yukon Human Rights Commission was established in July 1987 as a result of new Human Rights legislation passed by the Yukon legislature in February of that year.

The Commission's objectives are:

- to inform the public about general human rights principles and practices and encourage Yukoners to put them into practice in their own lives and workplaces;

- to eliminate all forms of prohibited discrimination which prevent people from living as equals in Yukon society;

- to conduct efficient and effective investigations of alleged violations of the Yukon Human Rights Act;

The Commission is not a government branch or department. It is an independent body, but is accountable to the legislature. Its members are appointed by the Yukon Legislature for a three year term. The first Commission was appointed in July 1987 to serve until July 1990. The Commission reports directly to the Yukon Legislature about its activities.

The jurisdiction of the Commission is restricted to matters that fall within the constitutional authority of the Yukon Legislature. Complaints against federal government employees and federally-regulated companies such as banks, airlines and railways are referred to the Canadian Human Rights Commission's Western office.

The Yukon Human Rights Commission is composed of three members who set priorities and make decisions about policy, education programs and complaints. In 1989-90 they were:

Sylvia Neschokat
(Chairperson)
John Anton
Violet Greenway

The Commission's office is located at 205 Rogers Street in Whitehorse. Its staff includes an executive director, a human rights officer and a part-time receptionist. The executive director is responsible for managing the Commission's daily business. The human rights officer investigates complaints.

'Human rights are instrinsically important. They are an essential part of the democratic process and life wouldn't be worth living without them.'

JOHN P. HUMPHREY
President Emeritus,
Canadian Human Rights
Foundation

CHAIRPERSON'S REPORT

This year the three founding members of the Yukon Human Rights Commission complete their three-year term of office. From 1987–1990 this body, appointed by the Yukon Legislature, took some important first steps toward meeting the objectives of the territory's Human Rights Act.

Living up to the promise of the Yukon Human Rights Act has been, and remains, a challenge for the Commission. The Yukon's human rights legislation is demanding, creative and unique in Canada. Our goal as Commission members is to ensure that what is in the legislation is what we will one day see mirrored in our community.

Some of the Commission's major achievements include developing an investigation and complaint-handling process; a pay equity policy for the public sector and a strategy to encourage voluntary compliance with it; and public consultation on an employment-related medical testing policy. The Commission has also undertaken significant public education initiatives such as the Community Grants Program and National Access Awareness Week. This year it is hosting a national human rights conference on aboriginal rights for human rights agencies and Yukoners.

The major areas that still need to be addressed are pay equity in the private sector and better communication with rural Yukoners about our activities and mandate. The Commission will also continue to work toward better access to services, jobs and facilities and the elimination of the barriers and discrimination that currently exist in the territory for people with disabilities.

The Yukon Human Rights Commission's best-known complaint is the Madeleine Gould case. It was decided in favour of the Commission and Mrs. Gould at a Board of Adjudication in early 1989 but is now under appeal. It is anticipated that the case will be heard in the fall of 1990. This case, which deals with the issue of female membership in an all-male organization, continues to be significant for Canadian, as well as Yukon, women.

Funding and independence are the two most critical management issues facing the Commission. Over the past years the Commission has struggled to manage within a very restrictive budget. Last year we dealt with this by cutting many of our planned programs and activities. Inadequate funding remains an ongoing concern for the future, especially since it continues to compromise the independence of the Commission from the government of the day. Further discussion with the territorial government and decisions by the Yukon Legislature will be required to address these issues.

The Commission also anticipates that joint consultation with the Government of the Yukon to review the Yukon Human Rights Act will be required this year. Three years of operation have brought to light some of the weaknesses of the Act; notably Section 20, which limits the ability of the Commission to delegate responsibility to the Executive Director. Public consultation will also be required as part of this process.

REPORT OF THE EXECUTIVE DIRECTOR

The past year has been active for the Commission. Staff and Commission members worked hard in a number of key areas, including public education programs, dealing with complaints and promoting compliance with voluntary equal pay guidelines. The Commission also planned and organized a national conference of the Canadian Association of Statutory Human Rights Agencies to be held in the Yukon in June 1990.

Public education activities included events for National Access Awareness Week, workshops in Whitehorse and the communities, and distribution of information about Human Rights Day and the International Day for the Elimination of Racial Discrimination.

As Yukoners become more aware of the Commission's role, an increasing number of inquiries and formal complaints are received and processed.

The Commission instituted a new complaint management system to help track the progress of each case from the initial inquiry through the investigation and settlement. The new recording system will also allow the Commission to monitor the implementation of complaint settlements.

'Whatever mitigates the woes or increases the happiness of others, this is my criterion of goodness; and whatever injures society at large, or any individual in it, this is my measure of iniquity.'

ROBERT BURNS

NATIONAL ACCESS AWARENESS WEEK

As part of its education mandate, the Commission participated in the territory's second celebration of National Access Awareness Week from June 4 to June 10, 1989. This week of special activities provides the public with opportunities to become sensitive to the needs of people with disabilities.

The Commission believes that as Yukoners become more aware of the barriers which face people with disabilities, they will understand and deplore the discrimination that exists in our society and be willing to do something to change it.

During the week's activities several prominent Yukoners got into wheelchairs or put on special eyeglasses to put themselves in the place of people with disabilities. They experienced the difficulties of climbing stairs, getting through doors or playing sports with a disability. This kind of personal experience helps individuals understand that — although often unintentional consequences of standard construction or office practices — some of the obstacles faced by disabled people are a form of discrimination. These barriers have the effect of discriminating against people with disabilities because they cannot work or get services in a building without wheelchair access, or get access to information.

Events included:

• Opening ceremonies in the foyer of the Yukon Government Administration Building with cake and speeches by Premier Tony Penikett, Bea Firth, M.L.A., Whitehorse Mayor Don Branigan, and Commissioner Ken McKinnon. Community groups and the Human Rights Commission set up information tables about the services available locally for people with disabilities.

• Maurice Byblow, Minister of Community, Transportation and Government Services got into a wheelchair to experience a mobility disability and M.L.A. Dan Lang donned special eyewear that simulates visual impairment. The two men attempted to conduct everyday government business with these disabilities;

• The Commission hosted an evening reception at the office for community and government representatives to meet national and regional human rights officials;

• A disabled F.H. Collins student was the catalyst for a wheelchair basketball game between staff and students;

• R.C.M.P. officers and media representatives played floor hockey with four Special Olympics athletes on each team;

• People with disabilities participated in a CBC radio open line program;

• McDonald's Whitehorse had an awareness day with special mugs and placemats;

• Westmark Whitehorse hosted a closing barbecue for the public with support from Woolco and The Northern Store;

• Other groups involved in National Access Awareness Week included Yukon Special Olympics, Challenge, Dawn (Yukon), Multiple Sclerosis Society (Yukon), Learning Disabilities Association Yukon, Yukon Association for Community Living, Yukon Paraplegic Association, Whitehorse General Hospital, Positive Employment and Vocational Rehabilitation Y.T.G.

PUBLIC EDUCATION

The Yukon Human Rights Commission believes that public education is the most important responsibility of any human rights organization. During the year, the Commission spent more than $22,000 on public education events and activities in the territory.

Community Grants

The Commission established a Community Grants program in 1988 to encourage community organizations to become involved in forming human rights policy. The Commission agreed that the funding available for community groups would be split equally between special interest groups in Whitehorse and interested applicants from rural Yukon. However, all applicants for grants in 1989-90 were from Whitehorse. Of $3000 budgeted, only $1577 was spent, funding four activities in Whitehorse. The Commission will continue to encourage rural Yukoners to apply for community grants.

• A two day cross-cultural workshop was organized by Victoria Faulkner Women's Centre and held at Skookum Jim Friendship Centre in May 1989.

• A weekend workshop on the new Philippines was organized by the Yukon Development Education Centre, which brought film maker Nettie Wild to Whitehorse in September for a screening of her award winning film 'A Rustling Of Leaves'.

• A grant was used to help defray costs for the Yukon delegate attending the National Conference on Learning Disabilities in St. John's, Newfoundland in October 1989.

• A grant assisted Yukon artist Chris Caldwell to create a Yukon Special Olympics poster conveying the athletic abilities of special athletes.

REPORT ON ACTIVITIES

International Human Rights Day

December 10th has been set aside by the United Nations as International Human Rights Day around the world. The Commissioner of the Yukon proclaimed December 10, 1989, International Human Rights Day in the territory and the proclamation was published in both newspapers. Schools and churches across the Yukon were mailed Human Rights Day materials and asked to observe the special day.

Community

The Yukon Human Rights Commission and its staff organized and/or participated in 34 community consultations in Whitehorse and rural Yukon during 1989-90. The Commission made a special effort to visit Yukon communities during the year because of the obvious imbalance between the numbers of rural and urban Yukoners' inquiries about human rights. Whitehorse individuals and organizations have made many more requests for funding or information than rural Yukoners.

Past Executive Director Dave Porter conducted educational workshops on human rights in Ross River, Faro, Teslin and Watson Lake. He also met with Indian bands and spoke to special interest groups and school classes.

Commission Members the executive director and the human rights officer also conducted workshops and participated in seminars in Whitehorse with a variety of interest groups, including the Yukon Literacy Council, Yukon Development Education Centre, Learning Disabilities Association, and the Yukon Public Service Commission.

'If Canada cannot respond more actively to the challenge to do justice to our aboriginal people, there is little hope that we will measure up to other human rights challenges we face.'

DONNA GRESCHNER
Law Professor,
University of Saskatchewan

EQUAL PAY

In 1988, the Commission developed and distributed requirements for government employers to offer their employees equal pay for work of equal value. Through the past year the Commission has continued to encourage Yukon municipalities to comply with the requirements voluntarily.

At least three municipalities have completed evaluations of how equal their salary structure is and have implemented a program of equal pay for work of equal value. We applaud the communities of Whitehorse, Faro and Watson Lake for their action in this area.

NEW DIRECTOR

In February of 1990, Reggie Newkirk became the new Executive Director of the Yukon Human Rights Commission. Mr. Newkirk moved to the Yukon from British Columbia, where he was Executive Director of the British Columbia Institute on Family Violence. He has worked in the field of human rights for more than 15 years.

HOW COMPLAINTS ARE HANDLED

The process of investigating and settling an allegation of discrimination may appear complex and lengthy. In fact the process is a careful and logical examination of a complaint which can be explained briefly as follows:

1.

Individual Alleges Discrimination

The first step in a Human Rights investigation is that a person alleges that an individual or organization has discriminated against him or her. Discrimination may mean denying access, accommodation or employment on a wide range of grounds, including colour, race, national origin, ethnic or linguistic background, religious or political belief, activity or association, age, sex, pregnancy, sexual orientation, physical or mental disability, criminal record, marital status or actual or presumed association with individuals or groups whose identity or membership is defined by any of the factors listed.

2.

Investigation

The individual or organization is informed of the complaint. The next step is an investigation. This is done by an investigator authorized by the Executive Director of the Yukon Human Rights Commission. The investigator talks to people involved, examines personnel records and policy statements and observes the environment where the alleged discrimination took place. The Commission seeks the cooperation of the individual or organization. The individual or organization which is being investigated is legally bound not to obstruct or interfere with an investigation.

3.

Disclosure and Review

Early in 1990 the Commission introduced a new step in the complaint process. Both parties now have an opportunity to review the investigation report and make their own

written submission to the Commission explaining their position. The organization or individual may propose a settlement that would rectify the situation.

4.

Report to Commission

The investigator may recommend to the Commission that:

- the complaint be dismissed because it is not substantiated by evidence;
- the complaint is substantiated by evidence;
- the proposed settlement be accepted or rejected;
- A Board of Adjudication be appointed to hear the complaint.

5.

Resolution/ Settlement

Once the Commission has received the investigation report it may accept, reject or modify any of the recommendations. The Commission can also accept the settlement proposed by the individual or organization and recommend that it be carried out. It can also dismiss the complaint. If the Commission dismisses the complaint, an individual has the right to appeal the decision.

6.

Adjudication

If the Commission decides that the complaint should have a legal hearing, it requests that the Chief Adjudicator appoint a Board of Adjudication to examine the complaint. Anyone involved in the complaint may be represented by a lawyer at the hearing. The Adjudicator may decide the Human Rights Act has not been contravened and dismiss the complaint. However, if he or she decides discrimination has occurred, an order may be issued requiring the offending party to do any or all of the following:

- stop the discrimination;
- rectify any condition that causes discrimination (eg. provide denied housing or change a hiring policy);
- pay damages for any financial loss suffered as a result of the discrimination (eg. reimburse lost wages);
- pay damages for injury to dignity;
- pay legal costs.

The Board of Adjudication order is legally binding.

ENFORCEMENT OF THE ACT

From April 1, 1989 until March 31, 1990, the Yukon Human Rights Commission received 170 inquiries about human rights discrimination. Of this number, 8 were accepted for investigation. In addition, there were 14 complaints carried over from the last reporting period, bringing the total number of cases to 22.

Case Status

Settled	1
Dismissed	1
Withdrawn	2
Under appeal	1
Board of Adjudication	1
Disposition pending	4
Active investigation	13
Total number of cases under investigation	**22**

Prohibited Grounds

Ancestry	3
National Origin	1
Linguistic Background	1
Age	2
Sex	3
Disability	3
Criminal charges	2
Marital/family status	6
Association	1
Total number of cases under investigation	**22**

INQUIRY STATISTICS

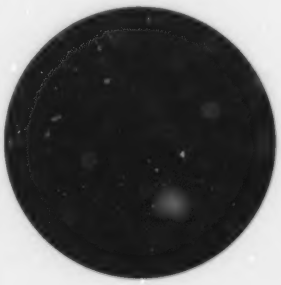
MONTH	NUMBER	REFERRED TO OTHER AGENCIES	REFERRED TO CHRC	HANDLED BY YHRC
April	15	4	1	10
May	11	1	2	8
June	16	5	1	10
July	11	4	1	6
August	12	4	0	8
September	9	1	0	8
October	8	3	1	4
November	7	1	1	5
December	3	0	0	3
January	11	0	0	11
February	16	3	2	11
March	51	9	4	38
Total	**170**	**35**	**13**	**122**

NATIONAL LIAISON

The Yukon Human Rights Commission participates in three major national human rights organizations; as a member of **The Canadian Association of Statutory Human Rights Agencies** and the **International Association of Official Human Rights Agencies,** and as an observer to **The Continuing Committee of Officials Responsible for Human Rights.**

The Canadian Association of Statutory Human Rights (CASHRA) is the main coordinating body for human rights commissions across Canada. It acts as a forum to voice national concerns about human rights. The Continuing Committee Of Officials responsible for Human Rights monitors Canada's record of complying with international human rights conventions. The Yukon Human Rights Commission participates in this national activity through the Continuing Committee. It also works with the territorial government to prepare reports on the Yukon's human rights record.

The Yukon Human Rights Commission was scheduled to host a major national human rights activity in June 1990, when the annual meeting of CASHRA takes place in Whitehorse. An estimated 150 participants, including human rights officials from the provinces and the territories, are expected to attend. This year will be the first CASHRA conference to focus on aboriginal rights.



Inquiry Status

- Whitehorse
- Communities

MEDICAL TESTING

In 1989 the Commission held a number of public discussions regarding a proposed policy on employers' use of medical testing during hiring or after engaging employees.

The Commission has reviewed and analyzed information received during public meetings and from various organizations and community groups. The review revealed that there is some confusion about the purpose of the policy and how it will affect the workplace.

As a result, the Commission has decided to undertake a public education program. The aim of this program is to clarify the policy's objectives. A series of fact sheets on the policy will be developed and distributed and workshops with interested organizations will also be conducted. The Commission anticipates completing this process by October 1990.

On March 21, the Commission and the Skookum Jim Friendship Centre collaborated to celebrate the International Day for the Elimination of Racial Discrimination. A circle of friendship was formed in front of the White Pass station to illustrate the theme of 'Together we're better'. The Commission also placed advertisements in the local press to increase awareness of racism.

FUTURE DIRECTIONS

In the coming year the Commission expects to see complaint investigations conducted more quickly with the help of its efficient new system. We look forward to working with more Yukon municipalities, government boards, commissions and corporations to encourage participation in the equal pay program launched in 1988.

The future holds great promise and challenge for the Commission. Several very important issues have emerged and are commanding our attention. Discrimination against people with AIDS is becoming a serious issue across Canada. People suffering from AIDS are being denied housing, jobs and insurance in many communities. The Commission will be asking local industry, educators, medical professionals and others to help us develop a coordinated plan of action to deal with this challenge in our territory.

Recent publicity about family violence — including child sexual abuse, spousal assault and elder abuse — presents Canadians and Yukoners with another grave challenge to human rights. While this is not an issue of discrimination, it is a threat to the dignity and well-being of individuals and families. Under the Yukon Human Rights Act the Commission is given the responsibility "to promote recognition of the inherent dignity and worth and of the equal and inalienable rights of all members of the human family...". Denial of these rights undermines any other attempts to achieve equality. The Commission invites all Yukoners to join it in working to establish a violence-free Yukon where all members of society will be able to reach their full potential.

Affirmative Action

When certain kinds of employment practices (including policies and procedures) become entrenched in the structure of society or institutionalized in social and business organizations, they become difficult to eliminate. Such employment discrimination is often unintentional but it reduces or denies employment opportunities to women, persons with disabilities, aboriginal people and racial minorities. This is what is known as systemic discrimination.

Affirmative Action is the strategy that has been developed to combat systemic discrimination, especially in the workplace. It begins with an assessment of how many aboriginal people, racial minorities, women and persons with disabilities are employed and what positions they hold. It includes a review of employment policies and practices to identify possible barriers. The assessment can be measured against the proportion of these socially disadvantaged groups in the labour pool. If a group is underrepresented, then programs can be designed to redress this. Programs may include training, or setting a fixed percentage for a certain group; for example, the number of Yukoners hired at a northern construction site.

In short, affirmative action is a way to ensure that various Yukoners who have been denied opportunities are given a chance to find their own level.

The Yukon Human Rights Commission plans to develop policy and guidelines on affirmative action in the coming years.

BALANCE SHEET: March 31, 1990

	1990	1989
ASSETS		
CURRENT ASSETS		
Cash and term deposit	$ 7,160	$ 1,814
FIXED ASSETS (note 2)	104,905	95,842
	$ 112,065	$ 97,656
LIABILITIES		
CURRENT LIABILITIES		
Accounts payable and accrued liabilities	$ 833	$ 16,827
Deferred income (note 3)	4,500	—
	5,333	16,827
EQUITY		
INVESTMENT IN FIXED ASSETS	104,905	95,842
SURPLUS (DEFICIT)	1,807	(15,013)
	106,712	80,829
	$ 112,045	$ 97,656

Approved by:

Sylvia Nechohat — Chairperson
Name — Title

Reginald Nanook Jr. — Executive Director
Name — Title

STATEMENT OF REVENUES AND EXPENSES

		1990	1989
REVENUE	Government grant: operations	$ 207,000	$ 200,000
	Government grant: CASHRA	5,500	—
	Other grants	1,434	3,129
	Other income	10,471	3,667
		224,405	**206,796**
EXPENSES			
Administration	Advertising and promotion	1,428	6,834
	Consulting Services	9,256	—
	Dues and memberships	660	250
	Equipment rental	—	37
	Interest and bank charges	85	132
	Miscellaneous	49	30
	Office supplies	3,396	3,542
	Postage, freight, deliveries	1,624	3,152
	Printing	—	1,602
	Professional fees	1,741	1,075
	Subscriptions, publications, films	1,250	1,130
	Telephone	5,224	7,587
		24,713	**25,371**
Staff	Employee travel, conferences	10,519	16,405
	Recruitment costs	2,264	—
	Wages, employee benefits	108,494	109,805
		121,277	**126,210**
Commission	Commissioner honorariums	7,000	9,800
	Commissioner meetings, hospitality	422	839
	Commissioner travel, conferences	6,354	6,268
		13,776	**16,907**
Public Education	CASHRA Coordination	7,024	—
	Casual labour	—	291
	Consulting	11,716	28,094
	Community Grants	1,577	4,001
	Miscellaneous	—	32
	Printing	120	2,733
	Rick Hanson fund	2,000	—
		22,437	**35,151**
Legal Advocacy		**$ 8,896**	**$ 10,698**
Operational	Insurance	800	825
	Legal Services	—	318
	Property Taxes	1,877	1,477
	Purchase: furniture, equipment	9,063	170
	Repairs, maintenance	1,303	2,466
	Utilities	3,443	3,564
		16,486	**8,820**
		207,585	**223,157**
Excess (Shortage) of Revenue over Expenses		**$ 16,820**	**$(16,361)**

STATEMENT OF SURPLUS (DEFICIT): For year ended March 31, 1990

	1990	1989
Balance, beginning of year	$ (15,013)	$ 1,348
Excess (Shortage) revenue over expenses	16,820	(16,361)
Balance, end of year	$ 1,807	$ (15,013)

NOTES TO THE FINANCIAL STATEMENTS: For year ended March 31, 1990

1. Significant Accounting Policies

a) Fixed Assets and Investment in Fixed Assets

Fixed assets are expensed in the year they are purchased. They are also capitalized on the balance sheet at cost.

The investment in fixed assets reflects the historical cost of all fixed assets owned by the Commission.

Subject to the above, the Commission follows the normal accrual basis of accounting.

b) Deferred Income

Grant monies received in the current year for which the corresponding expenditures will not occur until a future year are set up as deferred income. Deferred income is recognized as revenue when the corresponding expenses are incurred.

2. Fixed Assets

Land and Building	$ 81,147	$ 81,147
Furniture and equipment	23,758	14,695
	$ 104,905	**$ 95,842**

3. Deferred Income

Government grant for CASHRA Coordinator	$ 4500	$ —

AUDITORS' REPORT

We have examined the balance sheet of the Commission as at March 31, 1990 and the statements of revenue and expenditures and surplus for the period then ended. Our examination was made in accordance with generally accepted audited standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

In our opinion, these financial statements present fairly the financial position of the Commission as at March 31, 1990 and the results of its operations for the period then ended in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period.

Moore Perkin + Tanner

MOORE, PERKIN and TANNER; Chartered Accountants